

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR**
3 **THE MIDDLE DISTRICT OF ALABAMA**

4
5 THE UNITED STATES
6 OF AMERICA

7 vs.

CRIMINAL ACTION NO.
2:04-CR-97-MHT

8 WILLY FATE JONES
9
10
11
12

13 SENTENCING
14
15
16
17

18 * * * * *

19
20
21 BEFORE: The Hon. Myron H. Thompson

22 HEARD AT: Montgomery, Alabama

23 HEARD ON: March 30, 2005

24 APPEARANCES: Louis Franklin, Esq.

25 Barry Teague, Esq.

1 WHEREUPON, THE FOLLOWING PROCEEDINGS WERE HEARD BEFORE
2 THE HON. MYRON H. THOMPSON ON MARCH 30, 2005 AT THE
3 UNITED STATES COURTHOUSE IN MONTGOMERY, ALABAMA:

3

4 THE COURT: The Court calls the case of
5 *United States of America vs. Willie Fate Jones*,
6 criminal action number 2:04-CR-97-T. We're here for
7 the purpose of sentencing.

8 Will the defendant come forward with his
9 attorney.

10 Now, is this Mr. Willie Fate Jones?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Now, Mr. Jones, have you and
13 your attorney reviewed the presentence report,
14 including any revisions that may have been made after
15 the initial disclosure?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Now was there a plea agreement
18 in this case?

19 MR. FRANKLIN: Yes, Your Honor, there was.

20 THE COURT: Was there a plea agreement?

21 MR. FRANKLIN: Yes, sir.

22 THE COURT: Now what was the plea agreement?

23 MR. FRANKLIN: Judge, the plea agreement was
24 an 11(c)(1)(c) that called for the defendant to enter
25 a plea of guilty to counts one and three of the

1 indictment, and to provide substantial assistance to
2 the United States for his case and other cases. And
3 it called for the United States to recommend and the
4 defendant to agree that the appropriate sentence in
5 this matter would be a term of a hundred and
6 thirty-five months.

7 It also had a substantial assistance clause
8 whereby the United States promised to give the
9 defendant a downward departure if his assistance
10 proved substantial, and in this case it did. The
11 United States has filed a motion and asked the Court
12 to go down to one hundred and eight months in this
13 case.

14 THE COURT: Okay. Now is that a correct
15 summary of the plea agreement, Mr. Teague?

16 MR. TEAGUE: It is, Your Honor.

17 THE COURT: Okay. Now does the plea
18 agreement comply with the Sentencing Reform Act?

19 THE PROBATION OFFICER: Yes, sir.

20 THE COURT: Does Probation have any problems
21 with the plea agreement?

22 THE PROBATION OFFICER: No, sir.

23 THE COURT: Now this is an agreement for a
24 specific sentence, is that correct?

25 MR. FRANKLIN: It is, Your Honor.

1 THE COURT: Now the defendant also agrees to
2 a sentence of one hundred and eight months?

3 MR. TEAGUE: We do, Your Honor.

4 MR. FRANKLIN: Judge, if I may, just to
5 clarify the record, 11(c)(1)(c) was for a term of one
6 hundred and thirty-five months, and we wanted to make
7 sure that the defendant got his downward departure on
8 the front end as opposed to bringing him back in on a
9 Rule 35. So we filed that 5K earlier because his
10 assistance is complete at this time.

11 THE COURT: Now what was the hundred and
12 thirty-five months based on? How did you calculate
13 that?

14 MR. FRANKLIN: It was based on the amount of
15 cocaine base purchased from the defendant during the
16 controlled buy while we were investigating him. And
17 that came --

18 THE COURT: How many was that?

19 MR. FRANKLIN: The sentencing range was
20 one-thirty five to one sixty-eight, I believe, Your
21 Honor. And it was based on a sum of two hundred and
22 thirty-three grams of crack cocaine. There were two
23 controlled buys made from the defendant.

24 THE COURT: The Court accepts the plea
25 agreement.

1 Is the defendant ready for sentencing?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: So you have a drug problem, is
4 that correct?

5 THE DEFENDANT: Yes, sir. I have a drug
6 problem. Yes, sir.

7 THE COURT: You'll be going away for quite a
8 while. What is your age right now?

9 THE DEFENDANT: Forty-two.

10 THE COURT: Forty-two.

11 I think the main issue that's going to be
12 out there for you and for the Court when you
13 eventually get to supervised release is your drug
14 problem. That's going to be with you for the rest of
15 your life.

16 Are you ready for the Court to announce the
17 proposed sentence, before I decide whether to impose
18 the sentence as announced?

19 MR. TEAGUE: We are, Your Honor.

20 THE COURT: Is there anything you would like
21 to say?

22 MR. TEAGUE: No. Inasmuch as the Court has
23 said that it would accept the 5K downward departure,
24 we have no further comments.

25 THE COURT: There being no objections to the

1 presentence report, the Court adopts the factual
2 statements contained in the presentence report with
3 specific findings that the offense level is
4 thirty-three, the criminal history category is one,
5 the guideline range is one hundred and thirty-five to
6 one hundred and sixty-eight months, the supervised
7 release period is from two to five years and the fine
8 range is from seven thousand five hundred to four
9 million dollars.

10 The Court finds that the Government's motion
11 for a downward departure pursuant to Section 5K1.1 in
12 Title 18 United States Code, Section 3553(e) based on
13 the defendant's substantial assistance to the
14 Government is granted. The Court departs downward to
15 a sentence of a hundred and eight months.

16 Accordingly, the Court having considered and
17 consulted the sentencing guidelines and evaluated the
18 reasonableness of the sentence through the lens of
19 Title 18 United States Code, Section 3553(a), it is
20 the judgment of the Court that the defendant, Willie
21 Fate Jones, is committed to the custody of the Federal
22 Bureau of Prisons to be imprisoned for a total term of
23 one hundred and eight the months. The term consists
24 of one hundred and eight months on count one, and one
25 hundred and eight months on count three to be served

1 concurrently.

2 The Court recommends that defendant Jones be
3 designated for a facility where intensive residential
4 substance abuse treatment and educational training is
5 available.

6 The defendant shall pay to the United States
7 District Court Clerk a special assessment fee of two
8 hundred dollars which is due immediately.
9 Furthermore, because of his inability to pay, the
10 Court waives the imposition of a fine.

11 It is further ordered that upon release from
12 imprisonment the defendant shall be placed on
13 supervised release for a total term of five years.
14 The term consists of five years on count one, and
15 three years on count three, all such terms to run
16 concurrently. Within seventy-two hours of release
17 from custody the defendant shall report to the
18 probation office in the district to which is he
19 released. While on supervised release the defendant
20 shall comply with the mandatory and standard
21 conditions of supervised release on file with the
22 Court.

23 The Court also orders the following special
24 conditions. The defendant shall participate in drug
25 testing and treatment as directed by his supervising

MITCHELL P. REISNER, CM, CRR - (334) 265-2500

Official U. S. District Court Reporter

TOTAL COMPUTERIZED LITIGATION SUPPORT & INSTANT TRANSLATION

1 probation officer. He shall contribute to the cost of
2 any treatment based on his ability to pay and the
3 availability of third party payments. He shall
4 participate in educational and vocational training.

5 He shall submit to a search of his person,
6 residence, office and vehicle pursuant to the search
7 policy of this Court.

8 He shall cooperate in the collection of
9 D N A as directed by the supervising probation
10 officer.

11 The Court finds there is no identifiable
12 victim who incurred a financial loss as a result of
13 this offense.

14 Now I ask you at this time, are there any
15 objections to the sentence imposed or to the manner in
16 which the Court pronounced it, other than those
17 objections previously stated for the record? For
18 example, do you have any objection to the Court's
19 ultimate findings of fact or conclusions of law?
20 Furthermore, you are instructed that if you have an
21 objection you must not only state the objection you
22 must give the grounds for the objection.

23 MR. TEAGUE: Your Honor, we have no
24 objections.

25 THE COURT: I ask you at this time, Mr.

1 Jones, do you have anything to say as to why the
2 sentence as announced should not be imposed, or do you
3 have anything to say in mitigation of the sentence?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Now you have ten days -- well
6 first of all it is the order, judgment and decree of
7 the Court that the sentence as announced is hereby
8 imposed.

9 You have ten days to file any notice of
10 appeal, to the extent that you still have a right to
11 appeal. If you cannot afford the cost of an appeal,
12 the Court will allow you to appeal at no cost,
13 including furnishing you with a free transcript and a
14 free attorney.

15 You are in the custody of the marshal.

16 MR. FRANKLIN: Your Honor, at this time the
17 United States would move for the dismissal of counts
18 two, four and five consistent with the plea agreement.

19 THE COURT: Okay, those counts are
20 dismissed.

21 Anything else, Counsel?

22 MR. FRANKLIN: No, Your Honor.

23 THE COURT: Court is in recess.
24
25

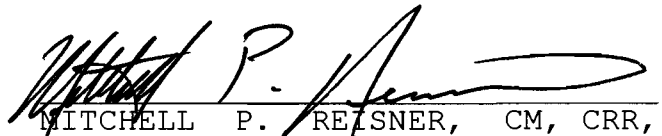
* * * * *

COURT REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter as prepared by me to the best of my ability.

I further certify that I am not related to any of the parties hereto, nor their counsel, and I have no interest in the outcome of said cause.

Dated this 12th day of April 2006.


MITCHELL P. REISNER, CM, CRR,
Official US Dist. Court Reporter
Registered Professional Reporter
Certified Real-Time Reporter

MITCHELL P. REISNER, CM, CRR - (334) 265-2500

Official U. S. District Court Reporter

TOTAL COMPUTERIZED LITIGATION SUPPORT & INSTANT TRANSLATION